

## SUBCHAPTER K—REGULATIONS UNDER PUBLIC LAW 91-469

### PART 390—CAPITAL CONSTRUCTION FUND

- Sec.
- 390.1 Scope of the regulations.
- 390.2 Application for an agreement.
- 390.3 Policy considerations.
- 390.4 Description of the agreement.
- 390.5 Agreement vessels.
- 390.6 Administration of the agreement.
- 390.7 Deposits into the fund.
- 390.8 Investment of the fund.
- 390.9 Qualified withdrawals.
- 390.10 Nonqualified withdrawals.
- 390.11 Sale or other disposition of agreement vessels.
- 390.12 Liquidated damages.
- 390.13 Failure to fulfill a substantial obligation under the agreement.
- 390.14 Departmental reports and certification.
- APPENDIX I TO PART 390—U.S. DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION—APPLICATION INSTRUCTIONS
- APPENDIX II TO PART 390—SAMPLE CAPITAL CONSTRUCTION FUND AGREEMENT
- APPENDIX III TO PART 390—U.S. DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION—SAMPLE SEMIANNUAL REPORT
- APPENDIX IV TO PART 390—SAMPLE ADDENDUM TO MARITIME ADMINISTRATION CAPITAL CONSTRUCTION FUND AGREEMENT
- APPENDIX V TO PART 390—SAMPLE QUALIFIED TRADE AFFIDAVIT

AUTHORITY: Secs. 53501, *et seq.*, of Title 46, United States Code, formerly, section 607, Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1177); 49 CFR 1.66.

SOURCE: 41 FR 4265, Jan. 29, 1976, unless otherwise noted.

#### § 390.1 Scope of the regulations.

(a) *In general*—(1) *Scope*. The regulations prescribed in this part govern the capital construction fund (“fund”) authorized by 46 U.S.C. 53501 *et seq.*

(2) *Establishment of a fund*. A fund is established by an agreement (“agreement”), which is a contract between the party (“party”) and the United States.

(3) *Purpose of the fund*. Chapter 535 provides that any agreement entered into with the Secretary of Transportation must be for the purpose of providing replacement vessels, additional vessels or reconstructed vessels to be built and documented in the United States and operated in the United

States foreign, Great Lakes or non-contiguous domestic trade.

(4) *Benefits of a fund*. Chapter 535 provides for the nontaxability of certain deposits of money or other property placed into a fund established pursuant to an agreement within certain ceilings. These ceilings are equal to:

(i) Earnings or gains realized from the operation of an agreement vessel;

(ii) Net proceeds realized from the sale or other disposition of an agreement vessel or from insurance or indemnification from the loss of an agreement vessel; and

(iii) Earnings from the investment or reinvestment of amounts on deposit in the fund.

(5) *Delegation*. The Secretary of Transportation has delegated the authority for matters relating to the United States Merchant Marine to the Maritime Administrator, Department of Transportation (“Maritime Administrator”).

(b) *Act*. For purposes of this part, the term Act shall mean Chapter 535 of Title 46, United States Code.

(c) *Joint regulations*. For purposes of this part, the term *joint regulations* shall mean the regulations prescribed by the Secretary of Transportation and the Secretary of the Treasury under Chapter 535 and published in title 26, part 3 of the Code of Federal Regulations (reprinted in part 391 of this chapter).

(d) *Cross references*. For rules relating to the Federal Income Tax aspects of a fund, see the joint regulations. For rules governing agreements relating to the fisheries of the United States, see the separate Secretary of Commerce regulations published in title 50, part 259 of the Code of Federal Regulations.

[41 FR 4265, Jan. 29, 1976, as amended at 73 FR 56740, Sept. 30, 2008]

#### § 390.2 Application for an agreement.

(a) *In general*—(1) *Application instructions*. The Maritime Administrator has adopted instructions for making application for an agreement. These instructions are contained in appendix I to